

MAINE WORKERS' COMPENSATION BOARD COMPLIANCE AUDIT REPORT

November 16, 1999

Liberty Mutual
10 Corporate Drive
Bedford, NH 03110

COPY

Claims Covered by Audit:

1998 Dates of Injury

Companies Covered by Audit:

Liberty Mutual Insurance Company
Liberty Mutual Fire Ins. Co.
Liberty Insurance Corp.
LM Insurance Corp.
First Liberty Insurance Corp.

NCCI # 15628
NCCI # 16586
NCCI # 21814
NCCI # 27243
NCCI # 27359

Third Party Administration

Helmsman Mgmt. Service

TPA # S321

Examination by:

Michael R. Nadeau, Audit Manager
Marlene Swift, Auditor

Reviewed and Approved by:

Steven Minkowsky, D.D.B.A.

The results of the audit and the procedures followed have been explained to:

Name:

Title:

Date:

John P. Lemire

Claims Manager

Various

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SUMMARY

The Audit Division of the Maine Workers' Compensation Board examined all claim files in the sample group (10% of all indemnity claims) for the period under examination to determine compliance with statutory and regulatory requirements in the following areas:

- Form filing
- Timeliness of indemnity payments
- Accuracy of indemnity payments

Our audit of the sample group revealed:

- Exemplary form filing compliance (93% to 100%). All missing forms were promptly filed upon request.
- 77% of initial payments were made timely. Of the 23% that were not timely, none were found to be in violation of §205(3).
- 69% of subsequent payments were made timely. Most of the untimely subsequent payments appeared to be a result of problems arising when employees had partial earnings (Some employers did not report earnings promptly. Others had bi-weekly payrolls which further hampered timely payments.)
- Average weekly wages and rates are being calculated properly (Only one error was found, and that error resulted in an overpayment to the employee.)
- An error was found in the method used to calculate benefits when employees were partially incapacitated for part of the first or last workweek of their incapacity. This calculation error also occurred when employees were entitled to benefits under §212 (TTD) for part of a workweek, and then under §213 (TPD) for the remainder of the workweek (or vice-versa).

Liberty Mutual had not previously received calculation instructions from the Board. They have now been instructed how to calculate benefits when these circumstances occur. We have been assured that these instructions will be used henceforth, and they have corrected all identified underpayments that resulted from the method previously used.

Liberty Mutual's records were examined to ensure that all 1998 lost-time claims had been reported to the Workers' Compensation Board. Five claims (out of 1119) were found not to have been reported to the Board at the time of audit. These claims were filed promptly upon request. Liberty Mutual's claims were found to be 99.56% compliant for First Report filings.

The Audit Division also examined Liberty Mutual's records to ensure that all penalty payments issued by the Board had been properly recorded. Six penalties were issued against Liberty Mutual between 9-26-96 and 2-10-99. All six penalties were miscoded by Liberty Mutual. However, the miscoding had no adverse effect on four of the six customers, and Liberty Mutual has taken steps to remedy the adverse effect imposed upon the other two customers.

PENALTIES

B. Maximum Penalties Allowed by Law

♦ 39-A M.R.S.A. Sec. 359(2)

“In addition to any other penalty assessment permitted under this Act, the board may assess civil penalties not to exceed \$10,000 upon finding, after hearing, that an employer, insurer or 3rd-party administrator for an employer has engaged in a pattern of questionable claims-handling techniques or repeated unreasonably contested claims. The board shall certify its findings to the Superintendent of Insurance, who shall take appropriate action so as to bring any such practices to a halt. This certification by the board is exempt from the provisions of the Maine Administrative Procedure Act.”

♦ 39-A M.R.S.A. Sec. 360(1)(A)

“The board may assess a civil penalty not to exceed \$100 for each violation on any person: Who fails to file or complete any report or form required by this Act or rules adopted under this Act;”

♦ 39-A M.R.S.A. Sec. 360(1)(B)

“The board may assess a civil penalty not to exceed \$100 for each violation on any person: Who fails to file or complete such a report or form within the time limits specified in this Act or rules adopted under this Act.”

Fourteen (14) forms were filed late (\$1,400.00).

♦ 39-A M.R.S.A. Sec. 360(2)

“The board may assess, after hearing, a civil penalty in an amount not to exceed \$1,000 for an individual and \$10,000 for a corporation, partnership or other legal entity for any willful violation of this Act, fraud or intentional misrepresentation. The board may also require that person to repay any compensation received through a violation of this act, fraud or intentional misrepresentation or to pay any compensation withheld through a violation of this Act, fraud or misrepresentation, with interest at the rate of 10% per year.

INDEMNITY BENEFITS

A. Prompt Initial Payment of Benefits

			1998	
			Number	Percent
Check Mailed Within:				
0-14	Days	Compliant	36	77%
15-28	Days		7	15%
29+	Days		4	8%
Total Due			47	100%
Salary Continuation			3	
NOC Filed Timely			5	

B. Prompt Subsequent Payment of Benefits

			1998	
			Number	Percent
Check Mailed Within:				
0-7	Days	Compliant	270	69%
8-14	Days		91	23%
15+	Days		29	7%
Unknown ¹			2	1%
Total Due			392	100%

C. Accuracy of Average Weekly Wage

			1998	
			Number	Percent
Calculated:				
Correct		Compliant	46	98%
Incorrect			1	2%
Total			47	100%

D. Accuracy of Weekly Benefit Rate

			1998	
			Number	Percent
Calculated:				
Correct		Compliant	46	98%
Incorrect			1	2%
Total			47	100%

¹ The category "Unknown" is a result of the insurance company commencing indemnity payments directly after the employer discontinued salary continuation.

CASE MANAGEMENT TECHNIQUES

A. Penalties Miscoded

Penalties Assessed

		Number	Percent
Penalties Properly Coded	Compliant	0	0%
Miscoded Penalties		6	100%
Total Penalties Assessed		6	100%

The preceding penalties were imposed between 9-26-96 and 2-10-99. Only two of the six miscoded penalties adversely affected Liberty Mutual customers. Liberty Mutual has taken steps to remedy this.

FORM FILING

A. First Report (WCB-1)

		1998	
		Number	Percent
Received at the Board:			
Filed	Compliant	1119	99.56%
Not Filed		5	0.44%
Total		1124	100.00%

B. Wage Statement (WCB-2)

		1998	
		Number	Percent
Received at the Board:			
Filed	Compliant	46	98%
Not Filed		1	2%
Total		47	100%

C. Memorandum of Payment (WCB-3)

		1998	
		Number	Percent
Received at the Board:			
Filed	Compliant	44	98%
Not Filed		1	2%
Total		45	100%
WCB-4A Filed ²		2	

D. Discontinuance or Modification (WCB-4)

		1998	
		Number	Percent
Received at the Board:			
Filed	Compliant	43	96%
Not Filed		2	4%
Total		45	100%
WCB-4A Filed ³		2	

² A WCB-4A was filed in lieu of a WCB-3.

³ A WCB-4A was filed in lieu of a WCB-4.

FORM FILING (Continued)

E. Certificate of Discontinuance or Reduction of Compensation (WCB-8)

		1998	
		Number	Percent
Received at the Board:			
Filed	Compliant	5	100%
Not Filed		0	0%
Total		5	100%

F. Notice of Controversy (WCB-9)

		1998	
		Number	Percent
Received at the Board:			
Filed	Compliant	7	88%
Filed Late		1	12%
Total		8	100%
Medical Only NOC		1	

G. Statement of Compensation Paid (WCB-11)

		1998	
		Number	Percent
Received at the Board:			
Filed	Compliant.	42	93%
Not Filed		3	7%
Total		45	100%